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Attorneys for Plaintiff
LIFETIME PRODUCTS, INC.

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF UTAH
CENTRAL DIVISION

LIFETIME PRODUCTS, INC., a Utah)	Civil Action No. 1:12-cv-00026-DN-EJF
corporation,)	
)	
Plaintiff,)	JOINT CLAIM CONSTRUCTION AND
)	PREHEARING STATEMENT
v.)	
)	
RUSSELL BRANDS, LLC, D/B/A)	Honorable Judge David Nuffer
SPALDING, a Delaware limited liability)	
company,)	Magistrate Judge Evelyn J. Furse
)	
Defendant.)	
)	

In accordance with the Scheduling Order in the above captioned action (DKT 30), Plaintiff Lifetime Products, Inc. (“Lifetime”) and Defendant Russell Brands, LLC (“Russell”), set forth their Joint Claim Construction and Prehearing Statement with regard to the asserted claims of United States Patent Nos. 7,749,111 (“the ‘111 Patent”), 8,033,935 (“the ‘935 Patent”), and 8,038,550 (“the ‘550 Patent”) (collectively the “patents-in-suit”) to be construed by the Court during the Claim Construction Hearing presently set for August 9, 2013 or as soon

thereafter as the Court can accommodate the hearing. For the convenience of the Court, the format of the Parties' Joint Statement is based on the requirements set forth in Judge Tena Campbell's Patent Rule 8.C ("Joint Claim Construction and Prehearing Statement").

I. Patent Rules §8.C.(1) – Agreed Terms

See Exhibit A, attached hereto.

II. Patent Rules §8.C.(2) – Disputed Terms and Supporting Evidence

See Exhibits B - D, attached hereto. Exhibit B lists each disputed term and each party's respective proposed construction of that term. Exhibit C consists of Lifetime's intrinsic and extrinsic evidence for each disputed term. Exhibit D consists of Russell's chart of intrinsic and extrinsic evidence supporting each of Russell's proposed constructions or indefinite positions.

Lifetime objects to Russell's characterization of the testimony of Maureen Reitman, Ph.D., as "intrinsic evidence" in support of its claim construction. Dr. Reitman has been retained by Russell as an alleged expert in this action and in connection with the reexamination proceedings of the patents-in-suit. By characterizing Dr. Reitman's declaration as "intrinsic" evidence, Russell is attempting to elevate the paid testimony of its expert to the level of "intrinsic" evidence, when it is in fact extrinsic evidence.

In response to Lifetime's objection, Russell responds that the intrinsic record, including the reexamination proceedings, speaks for itself, and as such, any quotations within that record on which Russell may rely for purposes of claim construction have been included in the appropriate "File History Support" column of Exhibit D.

III. Patent Rules §8.C.(3) and (4) – Claim Construction Hearing

Lifetime Statement

Lifetime anticipates 4 hours will be necessary for the Claim Construction Hearing. Lifetime does not intend to call any witnesses, but reserves the right to call rebuttal witnesses.

Russell Statement

Russell agrees that it anticipates 4 hours will be necessary for the Claim Construction Hearing. If permitted and desired by the Court, Russell intends to call Dr. Maureen Reitman as an expert witness for the purposes of claim construction to testify regarding (1) the level of a person of ordinary skill in the art, and (2) the indefiniteness of certain claim limitations proposed for construction. A true and correct copy of Russell's Disclosure of Expert Witnesses Relating to Claim Construction, disclosing Dr. Reitman and providing a summary of the facts and opinions on which she has been designated to testify, is attached hereto as Exhibit E.

IV. Patent rules §8.C.(5) – Prehearing Conference

Lifetime Statement

Lifetime is not aware of any issues that need to be discussed at a prehearing conference.

Russell Statement

Russell asserts that a prehearing conference may be beneficial to discuss the specific timing of the Claim Construction Hearing in light of the Court's schedule, and to discuss the potential testimony of Russell's disclosed expert witness.

DATED this 28th day of May, 2013.

By: /s/ Brent P. Lorimer

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LIFETIME PRODUCTS, INC.

DATED this 28th day of May, 2013.

By: /s/ Brie L.B. Buchanan

Nathan W. Johnson

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